IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.17839 of 2004

Between:

Banda Satyanarayana S/o.Yadagiri, aged 50 years,
R/o. Bachannapet Village and Mandal, Warangal District.

..... PETITIONER

AND

1 District Panchayat Officer, Warangal District at Warangal.
2 Bachannapet Gram Panchayat, Bachannapet Village and Mandal, through its Secretary.
3 Banda Muralidhar, S/o.Yadagiri, aged 40 years, Occ: Teacher, R/o. Bachannapet Village and Mandal, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate writ, order or direction preferably a writ in the nature of writ of Mandamus, declaring the proceedings in RC.No.2854/2004/A4 dt.22.9.2004 issued by the 1st respondent as being illegal, arbitrary, without jurisdiction and violative of Principles of natural justice and consequently set aside the same.

Counsel for the Petitioner: MR. K.RAGHUVEER REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT

Counsel for the Respondent No.3: MR. V. SREENIVASA RAO

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.17839 OF 2004

ORDER:

The petitioner is aggrieved by the proceedings being R.C.No.2854/2004/A4 dated 22.09.2004 of the first respondent, whereby and whereunder, the first respondent directed the Panchayat Secretary, Bachannapet Gram Panchayat in Warangal District to mutate the name of the third respondent in Gram Panchayat records in respect of house No.11-8. The order is assailed on two grounds, namely, that the first respondent is not competent to order mutation and that the same is bad being in violation of principles of natural justice. Reliance is placed on Rule 9 of the Rules Relating to Certain Taxes & Other Lodging of Moneys by the Gram Panchayat and Payment of Money from the Gram Panchayat Fund, framed by the Governor vide G.O.Ms.No.30, dated 20.01.1995, for the purpose of certain taxes and lodging of moneys received by Gram Panchayat. Rule 9 reads as under.

9. (1) The executive authority may amend the assessment books at any time between one general revision and another by inserting any house therein or removing any house therefrom or by altering the valuation or classification of any house, or the amount of tax payable in respect thereof or, subject to any other rules which the Government may make in this behalf, by substituting therein for the name of the owner of any house, the name of any other person who has succeeded by transfer or otherwise to the ownership of the house;

(2) Such amendment shall be deemed to have taken effect on the first day of the year in which it is made:

Provided that when the amendment is made in any year after the expiration of the date on which payment of the tax is due, it shall have effect only from the succeeding year, except where the amendment gives affect to the fixation of the fair rent under the law relating to the control of lease and rent to buildings for the time being in force;

Provided further that, where the amendment is rendered necessary by reason of the fixation of the fair rent of a house under the law aforesaid, the amendment shall have effect as from the date on which the fair rent was so fixed;

(3) In every case in which, between one general revision and another the executive authority assesses any house for the first time or increases the assessment on any house otherwise than in consequence of a general enhancement of the rate at which the house tax is leviable, the executive authority shall intimate by a special notice to the owner or occupier of such house that a petition for revising the assessment will be considered if it reaches the gram Panchayat office within sixty days from the date of service of such notice in the case of the State or Central Government or a company, and within thirty days from the date of service of such notice in other cases.

As per Rule 9 of the said Rules, it is executive authority, i.e. the Panchayat Secretary of Gram Panchayat, who is competent to amend the assessment books by inserting the name of a person in relation to a house. Under Section 128(2) of the A.P. Panchayat Raj Act, 1994, read with A.P.Gram Panchayat (Second Appeal) Rules, 2000, the first respondent is the second appellate authority against any order passed by executive authority. Further, it is not denied before this Court that no notice is issued by the first respondent. For these two reasons, the order is liable to be set aside.

Accordingly, the writ petition is allowed. The impugned order is set aside and liberty is given to the third respondent to approach the Panchayat Secretary, Bachannapet Gram Panchayat in this regard. Needless to mention that Panchayat Secretary shall issue notice to the petitioner and all others interested in property and take appropriate action in accordance with the Rules mentioned hereinabove.

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(V.V.S.RAO,J)

02.11.2004.

pln

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday the Second day of November, Two thousand and four only.

To

1 The District Panchayat Officer, Warangal District at Warangal.
2 The Secretary, Bachannapet Gram Panchayat, Bachannapet Village

and Mandal, Warangal District.
3 Two CCs to the Government Pleader for Panchayat Raj and Rural

Development, High Court Buildings, Hyderabad (O.U.T).

4 Two C.D. Copies.